

CITY COUNCIL AGENDA

JUNE 3, 2008

SYNOPSIS

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO

KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3

DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
DAVID D. CORTESE,
MAYOR
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8

DISTRICT 9
DISTRICT 10

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On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:00 a.m. Closed Session, Call to Order in Council Chambers
Absent Council Members: None.

1:30 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.

7:00 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: Cortese (Excused).
- **Invocation (District 6)**
Reverend Ken Henry of Stone Church presented the Invocation.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Items 2.7 and 4.3 deferred to 6/10/08.

- **Closed Session Report**
City Attorney Doyle disclosed the following Closed Session actions of June 3, 2008:

A. Authority to Pursue Appellate Review in a Litigation Case:

Case Name: **Solorio v. City, et al.**

Adverse Party or Parties: **Apolonio Solorio**

Substance of Litigation: **Solorio sued the City for alleged civil rights violations stemming from his arrest and incarceration as a suspect in a robbery.**

Council Vote: Ayes: **Campos, Chirco, Chu, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.**

Noes: **None.**

Disqualified: **None.**

Absent: **None.**

Vacant: **None.**

1. CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to Betty Mora for her organization of the First Annual Parent University Event held at Summerdale Elementary School. (Chu)
(Deferred from 5/20/08 – Item 1.5)
Mayor Reed and Council Member Chu recognized and commended Betty Mora for her organization of the First Annual Parent University Event held at Summerdale Elementary School.
- 1.2** Presentation of a commendation to the Student Body of Holy Family School for being a D9 Star. (Chirco)
Heard in the evening.
Council Member Chirco recognized and commended the Student Body of Holy Family School for being D9 Stars.
- 1.3** Presentation of a commendation to Jodi Lendenthal and Jane Burgunder for their development of the “Arts Express” program at Horace Mann School. (Liccardo)
Heard in the evening.
Council Member Liccardo recognized and commended Jodi Lendenthal and Jane Burgunder for their development of the “Arts Express” program at Horace Mann School.
- 1.4** Presentation of a commendation to Greenfair Silicon Valley for their work in helping people green their businesses, homes, and lives in San José/Silicon Valley. (Mayor)
Mayor Reed recognized and commended Greenfair Silicon Valley for their work in helping people green their businesses, homes, and lives in San José/Silicon Valley.

1. CEREMONIAL ITEMS

- 1.5 Presentation of a proclamation to NVIDIA declaring August 25, 2008 – September 1, 2008 as “Visual Computing Week”. (Mayor/Liccardo)
Deferred to 8/19/08.
- 1.6 Presentation of a commendation to deCarta for their efforts to drive the local economy, innovation and supporting City’s reputation as the Capital of Silicon Valley. (Mayor/Liccardo/Economic Development)
Mayor Reed and Council Member Liccardo recognized and commended deCarta for their efforts to drive the local economy, innovation and supporting City’s reputation as the Capital of Silicon Valley.
- 1.7 Presentation of a commendation to the Strong Neighborhoods Initiative Project Advisory Committee for its invaluable civic leadership and community engagement in revitalizing the neighborhoods in San José. (Mayor/Redevelopment Agency)
Deferred to 6/17/08 in the evening.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Regular Minutes of March 11, 2008
 - (b) Joint City Council/San José Financing Authority Minutes of March 11, 2008
 - (c) Regular Minutes of March 18, 2008
 - (d) Regular Minutes of March 25, 2008
- [Deferred from 5/20/08 – Items 2.1(b)-(c) and (e)-(f)]

Approved.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28305 – Repealing Ordinance No. 27748 to terminate the Commercial Solid Waste and Recyclables Collection Franchise previously granted to the Residential Bin Co., Inc.

Ordinance No. 28305 adopted.

- (b) ORD. NO. 28312 – Granting a Commercial Solid Waste and Recyclables Collection Franchise to Haul-Away Today.

Ordinance No. 28312 adopted.

- (c) ORD. NO. 28313 – Rezoning certain real property situated on the southwest corner of Cinnabar Street and Stockton Avenue (345 Stockton Street) to A(PD) Planned Development Zoning District. PDC06-094

Ordinance No. 28313 adopted.

2. CONSENT CALENDAR

2.3 Updated Master Agreement with Caltrans for Federal-Aid Transportation Grant Programs.

Recommendation:

- (a) Approval of an updated master agreement with Caltrans for federal-aid transportation grant programs.

Approved.

- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute any program supplements to the master agreement enabling the City to receive federal-aid funds for qualifying transportation projects.

CEQA: Not a Project. (Transportation)

(Deferred from 5/20/08 – Item 2.17)

Resolution No. 74387 adopted.

2.4 Approval to Revise the Airline Air Service Promotional Fee-Waiver Incentive Program.

Recommendation: Adoption of a resolution revising the airline air service promotional fee-waiver incentive program to support the development of new and added air service at the Norman Y. Mineta San José International Airport, by providing incentives for underserved long haul domestic markets, and an increased incentive for un-served Trans-Atlantic and/or Trans Pacific Air Service and long haul domestic flights, and repealing Resolution No. 73212. CEQA: Resolutions Nos. 67380 and 71451, File No. PP08-059. (Airport)

Resolution No. 74388 adopted.

2.5 Amendment to Civil Service Rules (SJMC 3.04.1410 – Disciplinary Hearings).

Recommendation: Approval of an ordinance amending Section 3.04.1410 of Chapter 3.04 of Title 3 of the San José Municipal Code (Civil Service Rules) to provide that disciplinary appeal hearings for Peace Officers be closed to the public unless requested to be a public session by the employee. (City Attorney's Office)

[Rules Committee referral 5/14/08 – Item G(4)]

Ordinance No. 28314 passed for publication.

2.6 Approval in Open Session of payment in exchange for release of claim considered by the Council in Closed Session on May 6, 2008.

Recommendation: Approval of payment to claimant, Kim Oanh-Nguyen, in the amount of \$75,000 pursuant to a Release, approved by Council in Closed Session on May 6, 2008 and executed by claimant on May 14, 2008, which provides that claimant discharges and releases the City from any and all claims resulting from, or which may result from a sewer back-up that occurred on January 28, 2007 at claimant's property. (City Attorney's Office)

Approved.

2. CONSENT CALENDAR

2.7 Contract with Fairbank, Maslin, Maullin & Associates for Consultant Survey Services.

Recommendation: Approval of a contract for consultant survey services with Fairbank, Maslin, Maullin & Associates, for a three-year term from time of execution, in an amount not-to-exceed \$296,000, subject to appropriation of funding. CEQA: Not a Project. (City Manager's Office)

Deferred to 6/10/08.

2.8 Actions related to the design and installation of Public Artwork at Happy Hollow Park and Zoo.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Tom Otterness to design, fabricate and install public artwork for the Happy Hollow Park and Zoo in a total amount not-to-exceed \$932,500. CEQA: Exempt, File No. PP05-184. (Economic Development)

Deferred to 6/10/08.

2.9 Actions related to the design and installation of Public Artwork at Seven Trees Community Center and Branch Library.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Roman de Salvo to fabricate and install artwork for the Seven Trees Community Center and Branch Library in a total amount not-to-exceed \$298,500. CEQA: Exempt, File No. PP05-184. Council District 7. (Economic Development)

Resolution No. 74389 adopted.

2.10 Approval to Donate Five Surplus Brush Patrol Vehicles.

Recommendation: Adoption of a resolution authorizing the Director of Finance to donate five surplus Brush Patrol Vehicles (1988 Ford F350 Cab and Chassis with a Brush Patrol body) with a cumulative estimated value of \$25,000 as follows: one vehicle to the Spring Valley Fire District, a volunteer fire department; two vehicles to San José Search and Rescue, a non-profit organization; one vehicle to Central County Occupational Center, an educational organization; and one surplus Brush Patrol to the Eves Volunteer Fire Department. CEQA: Not a Project. (Finance)

Deferred to 6/10/08.

2. CONSENT CALENDAR

2.11 Fiscal Actions for Redevelopment Agency Capital Projects.

Recommendation:

- (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2007-2008:
- (1) Increase the estimate for Earned Revenue by \$244,730.
 - (2) Increase the appropriation to the Department of Public Works for the Non-Project Specific DPW Services project (PSM 393, Amendment 1) in the amount of \$10,000. CEQA: Not a Project.
 - (3) Increase the appropriation to the Department of Housing for the SNI Multi-Family Home Improvement Program project (PSM 470, Amendment 1) in the amount of \$175,000. CEQA: Not a Project.
 - (4) Establish the appropriation to the Environmental Services Department for the KONA Area clean-up project (PSM 532) in the amount of \$59,730. CEQA: Exempt, File No. PP07-009.

Ordinance No. 28315 adopted.

Resolution No. 74390 adopted.

- (b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the KONA Area clean-up project as more specifically described in the memorandum from the Redevelopment Agency, dated May 5, 2008. CEQA: Exempt, File No. PP07-009.

(Public Works/Housing/Environmental Services/City Manager's Office)

Resolution No. 74391 adopted.

2.12 Agreement for the Auxiliary Chilled Water System Project for the City Hall Network Operations Center.

Recommendation: Approval of an agreement with Advance Design Consultants, Inc. for consultant services for the Auxiliary Chilled Water System project for the City Hall Network Operations Center, from the date of execution to February 28, 2009 in an amount not-to-exceed \$134,000. CEQA: Not a Project. (Public Works/General Services)

Approved.

2.13 Approval to Summarily Vacate a Portion of Public Right-of-way at the Southwest Corner of Third Street and San Fernando Street.

Recommendation: Adoption of a resolution to summarily vacate a portion of public right-of-way at the southwest corner of Third Street and San Fernando Street, recorded November 28, 2006 in Book 809 of Maps at Pages 16 and 17 of Official Records, Office of the Recorder, County of Santa Clara. CEQA: Resolution No. 71039.1 and Addenda thereto, File No. H04-038. Council District 3. (Public Works)

Resolution No. 74392 adopted.

2. CONSENT CALENDAR

2.14 Amendment to the Consultant Services Agreement with Kimley-Horn and Associates, Inc.

Recommendation: Approval of a fourth amendment to the Consultant Services Agreement between the City of San José and Kimley-Horn and Associates, Inc. for the design and development of the Silicon Valley Intelligent Transportation Systems West Corridor Project, to modify the cost reimbursement terms with no change in maximum compensation. CEQA: Exempt, File No. PP00-02-026. Council Districts 1 and 6. SNI: Burbank/Del Monte, Winchester. (Transportation)

Approved.

2.15 Report on Bids and Award of Contract for the California Housing Grant Project Accessibility Curb Ramps 2008.

Recommendation: Report on bids and award of contract for the California Housing Grant Project Accessibility Curb Ramps 2008 to the low bidder, SpenCon Construction, and approval of a contract amount of \$421,685 plus a contingency in the amount of \$42,168 for a total contract amount of \$463,853. CEQA: Exempt, File No. PP05-212. Council Districts 1, 3, 6 and 7. (Transportation)

Report Accepted.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone **No Report.**

3.2 Report of the Rules and Open Government Committee – May 14, 2008 **Mayor Reed, Chair** **Report Accepted.**

3.3 Report of the Public Safety, Finance and Strategic Support Committee – May 15, 2008 **Councilmember Nguyen, Chair** **Report Accepted.**

3. STRATEGIC SUPPORT SERVICES

3.4 Agreement to Purchase Office Supplies.

Recommendation: Adoption of a resolution authorizing the Director of Finance to execute:

- (a) An agreement and purchase order for the cooperative purchase of office supplies with Corporate Express through the cooperative contract offered by the National Intergovernmental Purchasing Alliance starting July 1, 2008 until June 30, 2012 in an amount not-to-exceed \$1,200,000 for the initial year of the agreement.
- (b) Amendments to the initial purchase order to adjust the not-to-exceed compensation subject to annual appropriation of funding.
- (c) Execute subsequent annual Purchase Orders subject to annual appropriation of funding.

CEQA: Not a Project. (Finance)
(Deferred from 5/20/08 – Item 3.5)

Deferred to 6/10/08.

3.5 AB 2058 (Levine) – Recycling: Plastic Carryout Bags: Paper Carryout Bags.

Recommendation: As referred by the Rules and Open Government Committee, consider a position of support for AB 2058 (Levine) – Recycling: Plastic Carryout Bags: Paper Carryout Bags. (City Clerk)

[Rules Committee referral 5/21/08 – Item C(1)(a)]

Position of Support Adopted.

Noes: Constant.

3.6 AB 2437 (Ruskin) Regional Water Systems.

Recommendation: As referred by the Rules and Open Government Committee, consider a position of support for AB 2437 (Ruskin) Regional Water Systems. (City Clerk)

[Rules Committee referral 5/21/08 – Item C(1)(a)]

Position of Support Adopted.

3.7 Report on Request for Information and Actions related to Outsourcing the City's Central Warehouse Operations.

Recommendation: Report on Request for Information and direct the Director of Finance to develop and issue a formal Request for Proposal for the purpose of potentially outsourcing the City's Central Warehouse Operations in accordance with the City's Public Private Competition Policy 0-29. CEQA: Not a Project. (Finance)

Deferred to August or to September 2008 for further analysis and outreach to potentially impacted employees.

3. STRATEGIC SUPPORT SERVICES

3.8 Actions related to the General Obligation Bonds, Series 2008 (Libraries and Parks Projects).

Recommendation: Adoption of a resolution:

- (a) Authorizing the issuance of the City of San José General Obligation Bonds, Series 2008 (Libraries and Parks Projects) (“2008 Bonds”) in the not-to-exceed aggregate principal amount of \$33,100,000 to be sold at a competitive sale.
- (b) Approving, in substantially final form, the Fiscal Agent Agreement, Official Notice Inviting Bids, and Preliminary Official Statement and authorizing the City Manager or other authorized officers to execute these documents and other related documents as necessary in connection with the issuance of the 2008 Bonds.

CEQA: Not a Project. (Finance/City Manager’s Office)

Resolution No. 74393 adopted.

3.9 AB 2640 (Huffman) Solid Waste: Compostable Organics Management.

Recommendation: As recommended by the Rules and Open Government Committee, adopt a position of support for AB 2460 (Huffman) Solid Waste: Compostable Organics Management. (Environmental Services)

[Rules Committee referral 5/28/08 – Item C(1)(a)]

Position of Support Adopted.

3.10 SB 1321 (Correa): School Recycling Programs.

Recommendation: As recommended by the Rules and Open Government Committee, adopt a position of support for SB 1321 (Correa): School Recycling Programs. (Environmental Services)

[Rules Committee referral 5/28/08 – Item C(1)(b)]

Position of Support Adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee Councilmember Pyle, Chair

No Report.

4.2 San José Japantown Historic Context and Intensive Survey Phase II.

Recommendation: Acceptance of the *San José Japantown Historic Context and Intensive Survey, Phase II* as recommended by the Historic Landmarks Commission (4-0-0). CEQA: Exempt, File No. PP05-004. Council District 3. (Planning, Building and Code Enforcement)

(Deferred from 5/6/08 – Item 4.2)

Dropped.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Fiscal Actions Related to the Cinnabar Commons Apartments Project.

Recommendation: Adoption of a resolution:

- (a) Approving an increase to the City permanent loan to Cinnabar Commons, a California limited partnership, or an affiliated entity for up to \$506,652 to capitalize interest on the City's loan for the Cinnabar Commons Family Apartments project, located on Stockton Avenue between Cinnabar Street and Lenzen Avenue.
- (b) Approving up to 120% Loan-to-Value (LTV) as an exception to the City Council policy limiting LTV to 100%.

CEQA: EIR Resolution No. 71174. Council District 6. (Housing)

(Deferred from 5/20/08 – Item 2.9)

Deferred to 6/10/08 per Orders of the Day.

4.4 Housing Director Authority Relating to Predevelopment Loans and Second Mortgages.

Recommendation:

- (a) Approval of an ordinance amending Chapter 5.06 of the San José Municipal Code – “Contract Authority of the Director of Housing, City Manager and Director of Finance” – to modify the Director of Housing's delegated authority by: eliminating the maximum amount of predevelopment loans that can be made to nonprofit housing developers by the Director; and authorizing the Director to make commitments of project-based second mortgages.
- (b) Adoption of a resolution to increase the maximum amount of predevelopment loans that can be approved by the Director of Housing from \$100,000 to \$500,000; and set a \$500,000 limit on the amount of project-based second mortgages that can be committed by the Director of Housing to any one for-sale development.

CEQA: Not a Project. (Housing)

(Deferred from 5/20/08 – Item 4.3)

Deferred to 8/5/08 per the Mayor.

4.5 Discussion and Overview of the Economic Feasibility Analysis Completed as a Part of the City's Inclusionary Housing Study.

Recommendation:

- (a) Provide guidance and feedback to staff at this mid-way point in the review of a potential Citywide Inclusionary Housing Ordinance; and
- (b) Accept the Economic Feasibility Analysis Study completed by David Paul Rosen and Associates related to Citywide Inclusionary Housing in the City of San José.

CEQA: Not a Project. (Housing)

(Deferred from 5/20/08 – Item 4.4)

Deferred. Referred to Rules & Open Government Committee to set a date.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.6 Lease Agreement with the Tech Museum of Innovation for installing a Photovoltaic System on the roof of Parkside Hall.

Recommendation:

- (a) Approval of a lease agreement between the City of San José and the Tech Museum of Innovation for the use of Parkside Hall's roof and approval of City's consent to the sublease of Parkside Hall's roof and the Tech Museum's roof to Solar Star for the purpose of constructing, installing, maintaining and operating a photovoltaic solar generation system; and
- (b) Adoption of a resolution authorizing the City Manager to consent to the assignment of Solar Star's rights and obligations under the sublease to a third party, if necessary, in order to finance the photovoltaic solar generation system.

CEQA: Exempt, File No. PP08-039. Council District 3. (City Manager's Office)

Deferred to 6/10/07 per Administration.

4.7 Approval of the Demonstration Partnership Council Policy.

Recommendation: Adoption of a resolution approving a new Council Policy entitled "Framework for Establishing Demonstration Partnerships" which would establish a framework for engaging in and evaluating partnerships with private parties with the goal of developing, testing and demonstrating emerging technologies, product and service innovation. CEQA: Not a Project. (City Manager's Office)

Resolution No. 74394 adopted.

4.8 Public Hearing on a Mills Act Historical Property Contract - MA07-013.

Recommendation: Conduct a public hearing and consider the adoption of a resolution approving a Historical Property Contract (Mills Act Contract) between the City of San José and the owner of the McKee-Lundy House located at 592 N. Seventeenth Street, City Landmark No. HL86-34 (Maria Loretto, owner). CEQA: Exempt. Council District 3. (Planning, Building and Code Enforcement)

Public Hearing Heard.

Resolution No. 74395 adopted.

4.9 Public Hearing on a Conservation Area Amendment – CA08-001.

Recommendation: Conduct a public hearing and consider a Conservation Area Amendment to allow a seven-parcel expansion of the current boundaries of the Hanchett and Hester Park Conservation Area to include the following single-family detached residences: 23, 26, 27, 28, 31, 34 and 36 Tillman Avenue Cassandra Ravenscroft, project proponent. CEQA: Exempt. Council District 6. (Planning, Building and Code Enforcement)

Continued to 6/17/08 per Administration.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.10 Public Hearing on the Reorganization of McKee No. 134.

Recommendation: Conduct a public hearing and adoption of a resolution ordering the reorganization of the territory designated as McKee No. 134, which involves the annexation to the City of San José of approximately 1.33 gross acres of land consisting of 2 parcels located on the east side of North White Road, approximately 100 feet southerly of Kentridge Drive, and detachment of the same from the appropriate special districts, including Central Fire Protection, Area No. 01 (Library Services) County Service, County Lighting County Service and County Sanitation District 2-3 (Timothy Chen and Bruno J. Zulpo, Owners) (Related Prezonings PDC07-041 and C08-013). CEQA: EIR Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)
Heard in the Evening.

Public Hearing Heard.

Resolution No. 74396 adopted.

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee

Councilmember Chirco, Chair.

No Report.

5.2 Actions related to agreements with Hitachi Global Storage Technologies.

Recommendation:

- (a) Approval of a Turnkey Park Agreement, Environmental Agreement, and Maintenance Agreement with Hitachi Global Storage Technologies, Inc. (“Hitachi”) to:
 - (1) Dedicate parkland and construct park improvements;
 - (2) Set forth terms and conditions regarding environmental matters involving the parklands; and
 - (3) Outline Hitachi’s temporary obligations on the three (3) sites to be designated future public parks associated with Planned Development Zoning No. PDC04-031, Master Planned Development Permit PD05-087 and Tentative Map No. PT05-108.

Approved.

- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Subdivision Park Trust Fund (Fund 375):
 - (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$400,000 for Hitachi Turnkey Project Design Review and Inspection.
 - (2) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$714,000 for Reserve: Hitachi Turnkey Park and;
 - (b) (3) Increase the Earned Revenue estimate by \$1,114,000.
- CEQA: Resolution No. 72772. Council District 2. (Parks, Recreation and Neighborhood Services/City Manager’s Office)

Ordinance No. 28316 adopted.

Resolution No. 74397 adopted.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee Councilmember Williams, Chair.

No Report.

6.2 Actions related to the Food & Beverage and Retail Request for Proposal at the Airport.

Recommendation:

- (a) Consideration of appeal by Pacific Gateway Concessions, regarding the Airport Food & Beverage and Retail Concessions Program Request for Proposals and adoption of a resolution setting forth the decision of the City Council.
- (b) Adoption of a resolution authorizing the City Manager to:
 - (1) Negotiate and execute Concession Agreements between the City of San José and the following entities, effective from the date of execution by the City Manager through June 30, 2020:
 - (a) Host International, Inc., for the construction and operation of retail concessions at the Airport listed as Package 1 of the Food & Beverage and Retail RFP, with a minimum annual concession fee guarantee to the City of \$1,620,000.
 - (b) AMS-SJC JV, for the construction and operation of retail concessions at the Airport listed as Package 2 of the Food & Beverage and Retail RFP, with a minimum annual concession fee guarantee to the City of \$2,000,000.
 - (c) Areas USA SJC, LLC, for the construction and operation of food and beverage concessions at the Airport listed as Package 3 of the Food & Beverage and Retail RFP, with a minimum annual concession fee guarantee to the City of \$1,726,200.
 - (d) Host International, Inc., for the construction and operation of food and beverage concessions at the Airport listed as Package 4 of the Food & Beverage and Retail RFP, with a minimum annual concession fee guarantee to the City of \$2,860,000.
 - (2) Terminate negotiations with any of the recommended proposers for Packages 1 through 4 and negotiate Concession Agreements with lower-ranked proposers in order of their ranking for each package, in the event that the City Manager determines that the City and the recommended proposer cannot agree upon the terms of the Concession Agreement by August 1, 2008.
 - (3) Negotiate and execute amendments to the Concessions Agreements for expansion or contraction of locations and modification or replacement of concepts and subtenants during the overall term of the Concession Agreements, so long as no changes are made in the provisions in the Concession Agreements regarding percentage rent or MAG to be paid to the City.

CEQA: Resolutions Nos. 67380 and 71451, File No. PP08-060. (Airport)
Deferred to 6/10/08.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 2007 Independent Police Auditor Year End Report.

Recommendation: Accept the 2007 Independent Police Auditor Year End Report; and:

- (a) Direct the City Manager to Direct the SJPd to Enter Misconduct Complaints into the Shared Database Contemporaneous with the Date of SJPd Knowledge of the Complaint to Ensure Accurate Recording, Reporting and Tracking of All Complaints.
- (b) Direct the City Manager to Direct the SJPd to Revise Its Policies to Ensure that Written Notice Is Given of the Property Return/Auction/Disposal Process to the Owner at the Time that Property is Booked.
- (c) Direct the City Manager and the City Attorney to Standardize the Processes Used by San José City Departments to Provide Notice to Owners of the Intention to Tow a Vehicle for Violation of San José Municipal Code §11.56.020.

(Independent Police Auditor)

Annual Report Accepted. Police Department Response Accepted. Council directed the City Manager to direct the SJPd to:

- (1) Revise policies to ensure that written notice is given of the property return/auction/disposal process to the owner at the time that property is booked, and**
- (2) Standardize the processes by San José City departments to provide notice to owners of the intention to tow a vehicle for violation of the San José Municipal Code Section 11.56.020.**

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Actions related to Permitting Promoters.

Recommendation: Actions related to Permitting Promoters as follows:

- (a) Approval of an ordinance by the City Council:
 - (1) Amending Chapter 6.58 of Title 6 of the San José Municipal Code to require operators of public dancehall venues to use permitted promoters and to hold persons required to be permitted under Chapter 6.58 of the Code, but not so permitted responsible for violations of Chapter 6.58 of the Code; and
 - (2) Amending Chapter 6.60 of Title 6 of the Code to require operators of public entertainment business venues to use permitted promoters and to hold persons required to be permitted or licensed under Chapter 6.60, but not so permitted or licensed, responsible for violations of Chapter 6.60 of the Code; and
 - (3) Adding Chapter 6.62 to Title 6 of the Code to require promoter permits and setting regulations and conditions on promoter permits.

Ordinance No. 28317 passed for publication.

- (b) Adoption of a resolution by the City Council amending the Administrative Citation Schedule of Fines for Certain Violations of the Code to amend and establish fines for certain violations of Code Chapters 6.58 (Public Dancehalls) and 6.60 (Public Entertainment Permit) and to establish fines for violations of Code Chapter 6.62 (Event Promoters), and repealing Resolution No. 74033, to be effective July 1, 2008.\

Resolution No. 74398 adopted.

- (c) Acceptance of the Supplemental Memo as staff's report to the request by City Council to conduct further outreach regarding the proposed ordinance and the resolution amending the City's Schedule of Administrative Fines.
- (d) Direction to include the proposed fee of \$986 for the Event Promoter Permit in the City's Schedule of Fees and Charges for 2008-2009.

CEQA: Not a Project. Council District 3.

[Deferred from 4/29/08 – Item 9.1(b) and 5/20/08 – Item 9.1]

Actions related to permitting promoters were accepted with direction to City Attorney to work with the City Manager in providing promoters and club owners with some form of exemplary boilerplate language for creating contracts.

- Open Forum
None.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar.

Recommendations:

- (a) Consideration of an ordinance rezoning the real property located at/on the north side of Michigan Avenue approximately 350 feet easterly of North 1st Street from CN Commercial Neighborhood Zoning District to A(PD) Planned Development Zoning District to allow up to 6 single-family detached residences on a 0.69 gross acre site (Schulman, Bennie and Linda S, Owners). CEQA: Mitigated Negative Declaration.

PDC06-018 – District 4

[Continued from 4/22/08 – Item 11.1(a)]

Dropped per Applicant.

- (b) Consideration of an ordinance rezoning the real property located at the northwest corner of East Brokaw Road and Oakland Road (1015 East Brokaw Road) from IP Industrial Park, LI Light Industrial, and HI Heavy Industrial Zoning Districts to CN Commercial Neighborhood Zoning District to allow commercial uses on a 8.2 gross acre site (Brokaw Ventures LLC, Owner). CEQA: Resolution No. 72768 and Addendum thereto. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C08-029 – District 4

Ordinance No. 28318 passed for publication.

- (c) Consideration of a Street renaming for the southern extension of Peregrino Way to Peregrino Drive, located at the southerly extension of Peregrino Way to approximately 350 feet northerly of Dry Creek Road (David Warda, Applicant). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

ST07-003 – District 6

Resolution No. 74399 adopted.

END PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Rezoning real property located at/on the southwest corner of Berryessa and Jackson Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the southeast corner of Berryessa and Jackson Avenue from R-1-5(PD) Planned Development Zoning District and A-Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to 379 single-family attached residences and 30,000 square feet for commercial uses, the demolition of one single-family residence and nine accessory structures, and the preservation/relocation of one single-family residence and one fruit stand on a 20.18 gross acres site (Pepper Lane Berryessa LLC, Myra Reinhard, Owners; Pulte Home Corporation, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC07-033 – District 4

(Deferred from 4/8/08 – Item 11.6 and 5/6/08 – Item 11.2 and 5/20/08 – Item 11.2)

Ordinance No. 28319 passed for publication with a request that Staff work with the applicant during the Planned-Development permit stage to balance full conformance to the Residential Design Guidelines with other staff considerations, review traffic circulation issues including adding a new driveway on Jackson, look for more opportunities to make open space more usable, construction of retail prior to 50 percent of the housing, and encourage the developer to engage in communications with the School District on student generation and addressing project school impacts.

11.3 Amending Title of 20 of the San José Municipal Code, the Zoning Code, to provide a height exception for solar photovoltaics.

Recommendation: Consideration of an ordinance of the City of San José amending Title 20 of the San José Municipal Code, the Zoning Code, to add Section 20.30.530 to provide a height exception for solar photovoltaic power generation systems mounted on the surface of an accessory building or structure, and to amend Sections 20.20.100, 20.30.100, 20.30.500, 20.40.010, 20.50.010, 20.70.100, 20.100.500, 20.100.610, and 20.100.1030, and amend Section 13.48.210 of Chapter 13.48, of the San José Municipal Code, Historic Preservation, all to clarify that a building permit may be issued for installation of solar photovoltaic power generation systems that conform to all of the development standards of the zoning district in which they are located. CEQA: Exempt, PP08-053. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

Citywide

Ordinance No. 28320 passed for publication.

11. PUBLIC HEARINGS

11.4 Amending Title of 20 of the San José Municipal Code, the Zoning Code, to amend use regulations in commercial and industrial zoning districts.

Recommendation: Consideration of an Ordinance of the City of San José amending Title 20 of the San José Municipal Code, the Zoning Code, to amend Section 20.40.520 to streamline requirements for outdoor uses in the commercial zoning districts; amend Section 20.50.100 to allow performing arts rehearsal space with a conditional use permit in the IP district; apply the “CM” notation in Table 20-110 to properties with the combined industrial commercial general plan designation, allow additional commercial uses in conjunction with large format commercial establishments, streamline permit requirements for data centers, and add tow yard as an enumerated use; amend Section 20.50.115 to establish requirements for commercial uses associated with large format commercial establishments; amend Section 20.50.120 to make additional provision for incidental retail sales in the Industrial Zoning Districts; amend Section 20.90.060 to reduce the parking requirement for data centers and performing arts rehearsal space, and establish parking requirements for tow yards and for large format commercial establishments, associated commercial; and add Sections 20.200.265, 20.200.605, and 20.200.1278 to define data center, large format commercial establishment and vehicle tow yard; and to make other related clarifying changes and amendments. CEQA: Exempt, PP08-056. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
Citywide

Ordinance No. 28321 passed for publication.

11.5 Rezoning real property located at/on the southwest corner of Murphy Avenue and Oyama Drive.

Recommendation: Consideration of an ordinance rezoning the real property located at/on the southwest corner of Murphy Avenue and Oyama Drive (1254 Murphy Avenue) from Agriculture Zoning District to the A(PD) Planned Development Zoning District to allow 3 single family residential units and up to 31 townhomes on a 2.99 gross acre site (Oyama Wright Trustee, Owner). CEQA: Addendum to North San José EIR. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
PDC07-088 – District 4

Ordinance No. 28322 passed for publication.

11. PUBLIC HEARINGS

11.6 Planned Development Rezoning for a Master Plan for the Bellarmine College Preparatory Campus.

Recommendation: Consideration of a Planned Development Rezoning for a Master Plan for the Bellarmine College Preparatory Campus. The Project includes demolition of about 47,000 square feet of existing buildings and the new construction of 135,884 square feet resulting in 272,578 square feet (total) on an existing private high school on an approximately 30.05 gross acre site located in the area generally bounded by W. Hedding Street, Caltrain right-of-way, Stockton Avenue, Emory Street and Elm Street (960 W. Hedding Street) (Bellarmine College Preparatory, Owner). CEQA: Mitigated Negative Declaration.

PDC07-072 – District 6

Continued to 6/17/08.

- Notice of City Engineer's Pending Decision on Final Maps

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

| <u>Tract</u> | <u>Location</u> | <u>Council District</u> | <u>Developer</u> | <u>Lots/Units</u> | <u>Type</u> |
|--------------|---|-----------------------------|------------------------|---------------------|---|
| 9948 | West side of South Willard Avenue, 180 feet south of Douglas Street | 6 | Steven and Nancy McVay | 7 Lots / 6 Units | Single Family Attached and Detached |

- Open Forum
None.

- Adjournment

The Council of the City of San José adjourned at 9:15 p.m. in memory of Thomas Harold Riddle, who passed away April 26, 2008, and had dedicated his life to education and community service. (Chu)

8. JOINT REDEVELOPMENT AGENCY/COUNCIL

8.1 Approval of a contractor prequalification program for the Convention Center Phase 1 Expansion Central Utility Plant Project.

Recommendations: Adoption of a resolution by the Redevelopment Agency Board approving a project-specific contractor prequalification program for the Convention Center Phase 1 Expansion Central Utility Plant Project. CEQA: Not a project.
[MERGED]

Redevelopment Agency Resolution No. 5829 adopted.

**JOINT CITY OF SAN JOSÉ
CITY COUNCIL/FINANCING AUTHORITY
AGENDA**

1:30 P.M.

TUESDAY, JUNE 3, 2008

CHAMBERS

- 1. Call to Order**
- 2. Actions Related to the City of San José Financing Authority Lease Revenue Bonds.**

Recommendation:

- (a) Actions related to the City of San José Financing Authority Lease Revenue Bonds, Series 2008A (Civic Center Refunding Project)**
 - (1)** Adopt the following 2007-2008 Appropriation Ordinance amendments in the City Hall Debt Service Fund (210):
 - (a)** Increase the appropriation for City Hall Debt Service by \$250,000; and
 - (b)** Decrease the appropriation for City Hall Garage Debt Service by \$250,000.

Ordinance No. 28323 adopted.

- (2)** Adoption of a resolution of the City Council approving, authorizing and directing execution of certain financing documents and direct certain related actions in connection with the issuance of the City of San José Financing Authority Lease Revenue Bonds, Series 2008A (Civic Center Refunding Project) (the “Civic Center Refunding Bonds”) in an aggregate principal amount not to exceed \$61,000,000, in connection with the refinancing of certain public capital improvements of the City of San José, to be sold through negotiated sale, and authorizing the City Manager or the City Manager’s authorized designees (“Designated Officers”) to take other actions as necessary in connection with the issuance of the Civic Center Refunding Bonds, including pledging additional assets to secure the project lease with the City of San José Financing Authority.

Resolution No. 74400 adopted.

(Item continued on the next page)

2. Actions Related to the City of San José Financing Authority Lease Revenue Bonds (Cont'd.)

- (a) (3) Adoption of a resolution of the City of San José Financing Authority Board:
 - (a) Authorizing the issuance of the Civic Center Refunding Bonds, in an aggregate principal amount not to exceed \$61,000,000, in connection with the refinancing of certain public capital improvements of the City of San José to be sold through negotiated sale; and
 - (b) Approving, authorizing and directing the execution of various financing documents related to the Civic Center Refunding Bonds and authorizing the Authority's Executive Director or the Executive Director's authorized designees ("Designated Officers") to take other actions as necessary in connection with the issuance of the Civic Center Refunding Bonds. CEQA: Not a Project.

SJFA Resolution No. 78 adopted.

Disqualified: Pyle.

(b) Actions related to the City of San José Financing Authority Lease Revenue Bonds, Series 2008B (Civic Center Garage Refunding Project)

- (1) Adoption of a resolution of the City Council approving, authorizing and directing execution of certain financing documents and direct certain related actions in connection with the issuance of the City of San José Financing Authority Lease Revenue Bonds, Series 2008B (Civic Center Garage Refunding Project) (the "Civic Center Garage Refunding Bonds") in an aggregate principal amount not to exceed \$35,000,000, in connection with the refinancing of certain public capital improvements of the City of San José, to be sold through negotiated sale, and authorizing the Designated Officers to take other actions as necessary in connection with the issuance of the Civic Center Garage Refunding Bonds.

Resolution No. 74401 adopted.

Disqualified: Pyle.

- (2) Adoption of a resolution of the City of San José Financing Authority Board:
 - (a) Authorizing the issuance of the Civic Center Garage Refunding Bonds, in an aggregate principal amount not to exceed \$35,000,000, in connection with the refinancing of certain public capital improvements of the City of San José to be sold through negotiated sale; and
 - (b) Approving, authorizing and directing the execution of various financing documents related to the Civic Center Garage Refunding Bonds and authorizing the Designated Officers to take other actions as necessary in connection with the issuance of the Civic Center Garage Refunding Bonds. CEQA: Not a Project.

SJFA Resolution No. 79 adopted.

Disqualified: Pyle.

(Item continued on the next page)

2. Actions Related to the City of San José Financing Authority Lease Revenue Bonds. (Cont'd.)

Recommendation:

(c) Actions related to the City of San José Financing Authority Lease Revenue Bonds, Series 2008C and 2008D (Hayes Mansion Refunding Project)

- (1) Adopt the following 2007-2008 Appropriation Ordinance amendments in the Community Facilities Revenue Fund (422):
 - (a) Increase the appropriation for Debt Service Payments for the Hayes Phase III by \$750,000; and
 - (b) Reduce the Ending Fund Balance by \$750,000.

Ordinance No. 28324 adopted.

Disqualified: Pyle.

- (2) Adoption of a resolution of the City Council approving, authorizing and directing execution of certain financing documents and direct certain related actions in connection with the issuance of the City of San José Financing Authority Lease Revenue Bonds, Series 2008C (Hayes Mansion Refunding Project) in an aggregate amount not to exceed \$11,000,000 and the City of San José Financing Authority Taxable Lease Revenue Bonds Series 2008D (Hayes Mansion Refunding Project) (collectively the “Hayes Mansion Refunding Bonds”) in an aggregate principal amount not to exceed \$48,000,000, in connection with the refinancing of certain public capital improvements of the City of San José, to be sold through negotiated sale, and authorizing the Designated Officers to take other actions as necessary in connection with the issuance of the Hayes Mansion Refunding Bonds.

Resolution No. 74402 adopted.

Disqualified: Pyle.

- (3) Adoption of a resolution of the City of San José Financing Authority Board:
 - (a) Authorizing the issuance of the Hayes Mansion Refunding Bonds, in an aggregate principal amount not to exceed \$11,000,000 for the Series 2008C Bonds and \$48,000,000 for the Series 2008D Bonds, in connection with the refinancing of certain public capital improvements of the City of San José to be sold through negotiated sale; and
 - (b) Approving, authorizing and directing the execution of various financing documents related to the Hayes Mansion Refunding Bonds and authorizing the Designated Officers to take other actions as necessary in connection with the issuance of the Hayes Mansion Refunding Bonds. CEQA: Not a Project.

SJFA Resolution No. 80 adopted.

Disqualified: Pyle.

(Item continued on the next page)

2. Actions Related to the City of San José Financing Authority Lease Revenue Bonds. (Cont'd.)

Recommendation:

(d) Actions related to the City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2008E (Ice Centre Refunding Project)

(1) Adopt the following 2007-2008 Appropriation Ordinance amendments in the Ice Centre Revenue Fund (432):

(a) Increase the Transfer for Debt Service Payment for the Ice Centre by \$250,000; and

(b) Reduce the Ending Fund Balance by \$250,000.

Ordinance No. 28325 adopted.

Disqualified: Pyle.

(2) Adoption of a resolution of the City Council approving, authorizing and directing execution of certain financing documents and direct certain related actions in connection with the issuance of the City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2008E (Ice Centre Refunding Project) (the “Ice Centre Refunding Bonds”) in an aggregate principal amount not to exceed \$28,000,000, in connection with the refinancing of certain public capital improvements of the City of San José, to be sold through negotiated sale, and authorizing the Designated Officers to take other actions as necessary in connection with the issuance of the Ice Centre Refunding Bonds.

Resolution No. 74403 adopted.

Disqualified: Pyle.

(3) Adoption of a resolution of the City of San José Financing Authority Board:

(a) Authorizing the issuance of the Ice Centre Refunding Bonds, in an aggregate principal amount not to exceed \$28,000,000, in connection with the refinancing of certain public capital improvements of the City of San José to be sold through negotiated sale; and

(b) Approving, authorizing and directing the execution of various financing documents related to the Ice Centre Refunding Bonds and authorizing the Designated Officers designee to take other actions as necessary in connection with the issuance of the Ice Centre Refunding Bonds. CEQA: Not a Project.

SJFA Resolution No. 81 adopted.

Disqualified: Pyle.

(Item continued on the next page)

2. Actions Related to the City of San José Financing Authority Lease Revenue Bonds. (Cont'd.)

Recommendation:

(e) Actions related to the City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2008F (Land Acquisition Refunding Project)

(1) Adopt the following 2007-2008 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

- (a) Increase the estimate for Other Revenue by \$675,000; and
- (b) Increase the City-Wide Expenses appropriation for FMC Debt Service Payments - Airport by \$675,000.

Ordinance No. 28326 adopted.

Resolution No. 74404 adopted.

(2) Adopt the following 2007-2008 Appropriation Ordinance and Funding Sources Resolution amendments in the Airport Revenue Fund (521):

- (a) Increase estimate for Earned Revenue by \$382,000 to reflect additional commercial paper proceeds; and
- (b) Increase the Transfer to the Airport Maintenance and Operation Fund by \$382,000.

Ordinance No. 28327 adopted.

Resolution No. 74405 adopted.

(3) Adopt the following 2007-2008 Appropriation Ordinance and Funding Sources Resolution amendments in the Airport Maintenance and Operation Fund (523):

- (a) Increase the estimate for Transfers by \$382,000; and
- (b) Increase the appropriation to the Airport Department for Property Lease Payment by \$382,000.

Ordinance No. 28328 adopted.

Resolution No. 74406 adopted.

(4) Adoption of a resolution of the City Council approving, authorizing and directing execution of certain financing documents and direct certain related actions in connection with the issuance of the City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2008F (Land Acquisition Refunding Project) (the "Land Acquisition Refunding Bonds") in an aggregate principal amount not to exceed \$68,000,000, in connection with the refinancing of certain public capital improvements of the City of San José, to be sold through negotiated sale, and authorizing the Designated Officers to take other actions as necessary in connection with the issuance of the Land Acquisition Refunding Bonds. CEQA: Not a Project.

Resolution No. 74407 adopted.

(Item continued on the next page)

2. Actions Related to the City of San José Financing Authority Lease Revenue Bonds. (Cont'd.)

Recommendation:

- (e) (5) Adoption of a resolution of the City of San José Financing Authority Board:
 - (a) Authorizing the issuance of the Land Acquisition Refunding Bonds, in an aggregate principal amount not to exceed \$68,000,000, in connection with the refinancing of certain public capital improvements of the City of San José to be sold through negotiated sale; and
 - (b) Approving, authorizing and directing the execution of various financing documents related to the Land Acquisition Refunding Bonds and authorizing the Designated Officers to take other actions as necessary in connection with the issuance of the Land Acquisition Refunding Bonds.

SJFA Resolution No. 82 adopted.

- (f) Adoption of a resolution of the City Council authorizing the City Attorney to negotiate and execute an agreement with Jones Hall, A Professional Law Corporation (“Jones Hall”) for bond counsel and disclosure counsel services related to the issuance of the City of San José Lease Revenue Bonds Series 2008A through 2008F in an amount not to exceed \$400,000. CEQA: Not a Project.

(Deferred from 5/20/08 – Item 2)

Resolution No. 74408 adopted.

Disqualified: Pyle.

3. The Joint Council/San José Financing Authority Meeting was adjourned at 4:10 p.m.



**CITY OF SAN JOSÉ PARKING AUTHORITY
AGENDA**

1:30 P.M. TUESDAY, JUNE 3, 2008 CHAMBERS

1 CALL TO ORDER AND ROLL CALL

1:30 p.m. - Regular Session, Council Chambers, City Hall

2 APPROVAL OF MINUTES

2.1 Minutes of June 26, 2007
 Approved.

3 OLD BUSINESS

4 NEW BUSINESS

5 ADJOURNMENT
